IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

WP(C).No. 9325 of 2007(I)

PETITIONER:

T.S.SUKUMARAN, (ATO,KSRTC,MANANTHAVADY DEPOT, RTD ON 31.5.2005), AGED 56 YEARS, S/O.SREEDHARAN SAROJA BHAVAN, AVADUKKA PO. PERUVANNAMMOOZHY, KOZHIKODE DISTRICT.

BY ADV. SRI.K.P.RAJEEVAN

RESPONDENTS:
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1. KERALA STATE ROAD TRANSPORT CORPORATION REPRESENTED BY ITS MANAGING DIRECTOR, TRANSPORT BHAVAN, FORT, THIRUVANANTHAPURAM.

2. THE SPECIAL DEPUTY TAHSILDAR (RR), KERALA STATE FINANCIAL ENTERPRISES LTD., KALLAI ROAD, KOZHIKODE-2.

BY JOHNSON.P.JOHN ,SC, K.S.R.T.C

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS.C.KURIAKOSE .J

W.P.(C) No.9325 of 2007

Dated this the 20th day of March 2007

JUDGMENT

The petitioner who is a retired Employee of the K.S.R.T.C seeks out-of-turn release of his retirement benefits on the ground that his Tharavad property has been brought to sale as per Ext.P2 sale notice. Sri. Johnson P.John standing counsel takes notice on behalf of K.S.R.T.C . I have heard the submissions of Sri. K.P.Rajeevan counsel for the petitioner and those of Sri. Johnson P.John. The standing counsel for the K.S.R.T.C. submits that it is not the petitioner's property which is brought to sale as per Ext.P2. The property belongs to somebody else. Advocate Mr. K.P.Rajeevan points out on the basis of the documents and the averments in the writ petition that the property belongs to the mother of the petitioner and that it is the Tharavad property which had been mortgaged in favour of the K.S.F.E. as security for a chitty subscribed to, by the petitioner himself. Considering the circumstances under which the Tharavad property is brought to sale I feel that there is justification for applying the principles laid down in Writ Appeal No. 17175/2004 .

Accordingly this writ petition will stand disposed of directing the K.S.R.T.C. to release to the petitioner immediately i.e within three weeks of receiving a copy of this judgment including all the amounts due to the petitioner on account of D.C.R.G The payment shall be made by means of a crossed instrument favouing K.S.F.E. . The petitioner will seek adjournment of the sale which is notified as per Ext.P2, on the basis of this judgment. The Sale Officer concerned will adjourn the sale on the same proclamation by at least one month on the petitioner's application.

PIUS.C.KURIAKOSE .JUDGE

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